

CITY OF BURLINGTON

ORDINANCE 5.09

Sponsors: Councilor Paul,  
Burlington City Arts, Ordinance  
Committee  
Public Hearing Dates: \_\_\_\_\_

In the Year Two Thousand Twenty-One

First reading: 03/22/21  
Referred to: Ordinance Committee  
Rules suspended and placed in all  
stages of passage: \_\_\_\_\_  
Second reading: 06/28/21  
Action: adopted  
Date: 06/28/21  
Signed by Mayor: 06/30/21  
Published: 07/07/21  
Effective: 07/28/21

An Ordinance in Relation to

B.C.O. – OFFENSES AND MISCELLANEOUS PROVISIONS  
Percent for Public Art  
Sections 21-120 through 21-123

It is hereby Ordained by the City Council of the City of Burlington as follows:

1 That Chapter 21, Offenses and Miscellaneous Provisions, of the Code of Ordinances of the City of  
2 Burlington be and hereby is amended by adding a new article, Article X, Percent for Public Art, thereto to  
3 read as follows:

ARTICLE X. PERCENT FOR PUBLIC ART

6 21-120 Purpose.

8 (a) Name. This Ordinance shall be known as the Percent for Public Art Ordinance.

10 (b) Purposes. The purpose of this Article is to provide funding for public art in capital projects funded  
11 wholly or in part by the City of Burlington. Public art strengthens public places and enhances and promotes  
12 Burlington’s identity as a livable, creative city and a desirable place to live, work and visit. The purpose of  
13 the Percent for Public Art Ordinance is to provide funding to involve artists in the design, implementation  
14 and integration of art in public projects, to support administration of the public art process, and to establish  
15 funds for maintenance of the City’s public art collection.

17 21-121 Definitions. For purposes of this ordinance, the following terms shall have the following meanings:

20 (a) “The Art in Public Places Guidelines and Policies” (the Guidelines) shall mean a policy adopted by the  
21 Board of Advisors of Burlington City Arts and approved by the City Council that will guide the development  
22 of the City’s Art in Public Places program and that will be funded in part through the Percent for Public Art  
23 Fund established by this ordinance.

25 (b) “Capital project” shall mean any project that is funded wholly or in part by the City of Burlington and  
26 that involves the construction, renovation, or remodeling of buildings, structures, or parking facilities; street  
27 improvements; streetscape improvements; or park or recreational area construction or remodeling. It does  
28 not mean any project or any portion of a project that is solely for repair or maintenance.

30 (c) “Eligible budget” shall mean that portion of the total budget for the capital project that is related to  
31 construction or rebuilding, but not debt issuance costs, permits, fees, maintenance, or other costs as may be  
32 excluded by the Guidelines.

33  
34 (d) “Public art” means a work of visual art or an artistically designed feature created by an individual who is  
35 professionally engaged in the production of creative and original artwork that is owned by the City of  
36 Burlington. The work shall be intended to be permanent or longstanding, not temporary or transitory, so as  
37 to qualify for capital funding.

38  
39 (e) “The Percent for Public Art Fund” shall mean one or more reserve funds of the City created for the  
40 purpose of housing the funds set aside pursuant to this ordinance and shall be carried over from year to year  
41 until expended.

42  
43 (f) “The Public Art Administrator” shall mean the employee of Burlington City Arts responsible for  
44 administration of the City’s public art collection and Art in Public Places program.

45  
46 (g) “The Public Art Committee” shall mean a committee created by the Board of Advisors of Burlington City  
47 Arts that includes City planning staff and may include individuals who are not members of the Board. A  
48 majority of the committee shall be residents or taxpayers of the City of Burlington. The Board may appoint  
49 specific members to serve on the Public Art Committee for any specific public art or capital project.

50  
51 **21-122 Eligible Projects.**

52  
53 (a) One Percent Set Aside. Any capital project, except as provided below, shall set aside at least 1% of its  
54 eligible budget for public art.

55  
56 (b) Set Aside Not Required. A capital project is not required to set aside funds for public art if:

- 57  
58 (1) the ability to set aside project funds is limited by law, regulation, bond covenant, grant terms, or  
59 funding agency rules;  
60 (2) the project is funded by a bond for which the voters did not authorize the use of funds for public  
61 art; or  
62 (3) the City Council specifically determines that a particular project will not fund the 1% for public  
63 art.

64  
65 (c) Public Art or Set Aside Funds. The 1% set aside shall either be used to incorporate public art into the  
66 project or be contributed to the Percent for Public Art Fund, as determined by the Public Art Committee in  
67 consultation with the project’s managers, except that for any capital project resulting in a set aside of  
68 \$10,000 or less, the set aside will be contributed to the Percent for Public Art Fund.

69  
70 (d) Determination of Eligible Capital Projects. For each capital project of the City within the City’s capital  
71 budgets, the Chief Administrative Officer and the Executive Director will consult with the responsible  
72 department head and project manager to determine whether the project is a capital project within the  
73 meaning of this ordinance. The mayor will resolve any dispute about the eligibility of a capital project.

74 (e) Additional Contributions. The City may encourage other projects that are not capital projects to  
75 contribute to the Percent for Public Art Fund, as appropriate.

76  
77 **21-123 The Percent for Public Art Fund.**

78  
79 (a) Eligible Costs. Monies reserved in the Percent for Public Art Fund are dedicated to the creation,  
80 management and maintenance of public art. They may be used, with respect to public art, for any of the  
81 following capital expenses:

- 82 (1) design, selection, acquisition, purchase, or commissioning,
- 83 (2) display, installation, or transport,
- 84 (3) conservation, cleaning, repair, maintenance, or restoration,
- 85 (4) insuring,
- 86 (5) decommissioning or sale, or
- 87 (6) administration of the Art in Public Places program.

88  
89 (b) Ineligible Costs. Monies from the Percent for Public Art Fund may not be used for:

- 90 (1) mass-produced, standard design objects or visual works;
- 91 (2) decorative, color, textural, or functional elements of a project designed by an architect, rather than  
92 as an integrated art work by an artist;
- 93 (3) landscape architecture or gardening except if an artist has included them as integral parts of a  
94 work of art;
- 95 (4) directional signage except as an integral part of an artist's design, or
- 96 (5) other ineligible costs identified in the Guidelines.

97  
98 (c) Percent for Public Art Fund Budget. The Executive Director of Burlington City Arts, with the approval of  
99 the Public Art Committee, will annually prepare a budget for the Percent for Public Art Fund that includes  
100 maintenance of the City's public art and administration of the City's Art in Public Places program to be  
101 included in the annual Mayor's Recommended Budget for City Council approval.

102  
103 (d) Committee Authorization. The Executive Director may authorize the acquisition of any public art using  
104 the Percent for Public Art Fund, consistent with the approved budget and the Guidelines.

105  
106 **21-124 Public Art Project Guidelines and Policies**

107  
108 (a) Establishment of Guidelines. The Board of Advisors of Burlington City Arts will create and oversee the  
109 Guidelines related to the selection, management, and maintenance of public art and the related use of the  
110 Percent for Public Art Fund, subject to approval of the Guidelines by the City Council.

111  
112 (b) Content of Guidelines. The Guidelines shall include:

- 113 (1) criteria for the selection and placement of the City's public art, including standards for public  
114 solicitation of artists;
- 115 (2) requirements to ensure that the City's public art reflects the cultural, racial, and ethnic diversity of  
116 the City, including methods to ensure representation by artists who reflect that cultural, racial, and  
117 ethnic diversity;

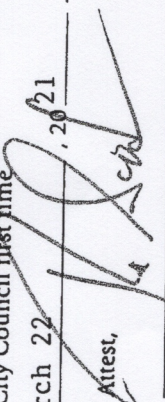


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B.C.O. - Offenses and Miscellaneous Provisions  
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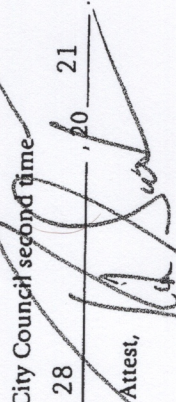
Introduced by  
Councilor Paul, Burlington City Arts, Ordinance  
Committee

Read in City Council first time  
March 22, 2021  
Attest, 

Rules suspended, and ordinance placed in all stages of  
passage.

\_\_\_\_\_, 20\_\_\_\_.

Attest, \_\_\_\_\_, Clerk.

Read in City Council second time  
June 28, 2021  
Attest, 

\_\_\_\_\_, Clerk.

Passed in City Council at meeting held  
June 28, 2021

Attest,  \_\_\_\_\_, Clerk.

Approved  \_\_\_\_\_, 2021  
\_\_\_\_\_, Mayor.

I, DFO Goodwin, City Clerk of the City of Burlington  
and Clerk of the City Council of said City, do hereby certify that the within written Ordinance has  
been duly published according to Law and the Charter of the City, and in compliance with said  
Charter this certificate is hereto attached.

And the within Ordinance was ordered published for \_\_\_\_\_ day,  
\_\_\_\_\_ day of \_\_\_\_\_, 2021.  
namely the \_\_\_\_\_ day of \_\_\_\_\_, 2021.  
Adopted \_\_\_\_\_ day of \_\_\_\_\_, 2021.  
Published \_\_\_\_\_ day of \_\_\_\_\_, 2021.  
Effective \_\_\_\_\_ day of \_\_\_\_\_, 2021.

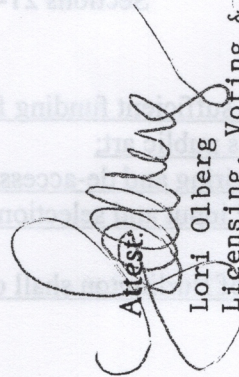
\_\_\_\_\_, DFO  
City Clerk

## Distribution

I hereby certify that this Ordinance has  
been sent to the following department(s)  
on \_\_\_\_\_

BCA Director Kraft

Attest:

  
Lori Olberg  
Licensing, Voting & Records Coordinatc

\_\_\_\_\_

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B.C.O. - OFFENSES AND MISCELLANEOUS PROVISIONS  
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Sections 21-120 through 21-123

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